



**6712-01**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 1 and 76**

**[MB Docket No. 07-42; FCC 11-119]**

**Leased Commercial Access; Development of Competition and Diversity in Video Programming Distribution and Carriage**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection associated with the Commission's rules contained in the Second Report and Order, FCC 11-119, pertaining to carriage of video programming vendors by multichannel video programming distributors (program carriage rules). This notice is consistent with the Second Report and Order, which stated that the Commission would publish a document in the Federal Register announcing the effective date of those rules.

**DATES:** The amendments to 47 CFR 1.221(h), 1.229(b)(3), 1.229(b)(4), 1.248(a), 1.248(b), 76.7(g)(2), 76.1302(c)(1), 76.1302(d), 76.1302(e)(1), and 76.1302(k) published at 76 FR 60652, September 29, 2011, are effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:** Cathy Williams at (202) 418-2918, or email: [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This document announces that, on January 30, 2012, OMB approved, for a period of three years, the information collection requirements relating to the program carriage rules contained in the Commission's Second Report and Order, FCC 11-119, published at 76 FR 60652, September 29, 2011. The OMB Control Number is 3060-0888. The Commission publishes this notice as an announcement of the effective date of the rules. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1-C823, 445 12<sup>th</sup> Street, SW, Washington, DC 20554. Please include the OMB Control Number, 3060-0888, in your correspondence. The Commission will also accept your comments via email at [PRA@fcc.gov](mailto:PRA@fcc.gov).

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

## **Synopsis**

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received final OMB approval on January 30, 2012, for the

information collection requirements contained in the modifications to the Commission's rules in 47 CFR parts 1 and 76.

Under 5 CFR 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060-0888.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Pub. L. 104-13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

**OMB Control Number:** 3060-0888.

**OMB Approval Dates:** January 30, 2012.

**OMB Expiration Date:** January 31, 2015.

**Title:** Section 1.221, Notice of hearing; appearances; Section 1.229 Motions to enlarge, change, or delete issues; Section 1.248 Prehearing conferences; hearing conferences; Section 76.7, Petition Procedures; Section 76.9, Confidentiality of Proprietary Information; Section 76.61, Dispute Concerning Carriage; Section 76.914, Revocation of Certification; Section 76.1001, Unfair Practices; Section 76.1003, Program Access Proceedings; Section 76.1302, Carriage Agreement Proceedings; Section 76.1513, Open Video Dispute Resolution.

**Form Number:** N/A.

**Respondents:** Business or other for-profit entities.

**Number of Respondents and Responses:** 668 respondents; 668 responses.

**Estimated Time per Response:** 6.1 to 90.5 hours.

**Frequency of Response:** On occasion reporting requirement, Third party disclosure requirement.

**Obligation to Respond:** Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 4(i), 303(r), and 616 Communications Act of 1934, as amended.

**Total Annual Burden:** 32,264 hours.

**Total Annual Cost:** \$2,705,400.

**Nature and Extent of Confidentiality:** An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information (PII) from individuals.

**Needs and Uses:** On August 1, 2011, the Commission adopted a Second Report and Order, Leased Commercial Access; Development of Competition and Diversity in Video Programming Distribution and Carriage, MB Docket No. 07-42, FCC 11-119. In the Second Report and Order, the Commission took initial steps to improve the procedures for addressing program carriage complaints by: (i) Codifying in the Commission's rules what a program carriage complainant must demonstrate in its complaint to establish a prima facie case of a program carriage violation; (ii) providing the defendant with 60 days (rather than the current 30 days) to file an answer to a program carriage complaint; (iii) establishing deadlines for action by the Media Bureau and Administrative Law

Judges (“ALJ”) when acting on program carriage complaints; and (iv) establishing procedures for the Media Bureau's consideration of requests for a temporary standstill of the price, terms, and other conditions of an existing programming contract by a program carriage complainant seeking renewal of such a contract.

The following rule sections contain new or revised information collection requirements and the Commission received final approval for the requirements from the Office of Management and Budget (OMB) on January 30, 2012:

47 CFR 1.221(h) requires that, in a program carriage complaint proceeding filed pursuant to Section 76.1302 that the Chief, Media Bureau refers to an administrative law judge for an initial decision, each party, in person or by attorney, shall file a written appearance within five calendar days after the party informs the Chief Administrative Law Judge that it elects not to pursue alternative dispute resolution pursuant to Section 76.7(g)(2) or, if the parties have mutually elected to pursue alternative dispute resolution pursuant to Section 76.7(g)(2), within five calendar days after the parties inform the Chief Administrative Law Judge that they have failed to resolve their dispute through alternative dispute resolution. The written appearance shall state that the party will appear on the date fixed for hearing and present evidence on the issues specified in the hearing designation order.

47 CFR 1.229(b)(3) requires that, in a program carriage complaint proceeding filed pursuant to Section 76.1302 that the Chief, Media Bureau refers to an administrative law judge for an initial decision, a motion to enlarge, change, or delete issues shall be filed within 15 calendar days after the deadline for submitting written appearances pursuant to Section 1.221(h), except that persons not named as parties to the proceeding in the designation order may file such motions with their petitions to intervene up to 30 days after publication of the full text or a summary of the designation order in the Federal Register.

47 CFR 1.229(b)(4) provides that any person desiring to file a motion to modify the issues after the expiration of periods specified in paragraphs (a), (b)(1), (b)(2), and (b)(3) of 47 CFR 1.229, shall set forth the reason why it was not possible to file the motion within the prescribed period.

47 CFR 1.248(a) provides that the initial prehearing conference as directed by the Commission shall be scheduled 30 days after the effective date of the order designating a case for hearing, unless good cause is shown for scheduling such conference at a later date, except that for program carriage complaints filed pursuant to Section 76.1302 that the Chief, Media Bureau refers to an administrative law judge for an initial decision, the initial prehearing conference shall be held no later than 10 calendar days after the deadline for submitting written appearances pursuant to Section 1.221(h) or within such

shorter or longer period as the Commission may allow on motion or notice consistent with the public interest.

47 CFR 1.248(b) provides that the initial prehearing conference as directed by the presiding officer shall be scheduled 30 days after the effective date of the order designating a case for hearing, unless good cause is shown for scheduling such conference at a later date, except that for program carriage complaints filed pursuant to Section 76.1302 that the Chief, Media Bureau refers to an administrative law judge for an initial decision, the initial prehearing conference shall be held no later than 10 calendar days after the deadline for submitting written appearances pursuant to Section 1.221(h) or within such shorter or longer period as the presiding officer may allow on motion or notice consistent with the public interest.

47 CFR 76.7(g)(2) provides that, in a proceeding initiated pursuant to Section 76.7 that is referred to an administrative law judge, the parties may elect to resolve the dispute through alternative dispute resolution procedures, or may proceed with an adjudicatory hearing, provided that the election shall be submitted in writing to the Commission and the Chief Administrative Law Judge.

47 CFR 76.1302(c)(1) provides that a program carriage complaint filed pursuant to Section 76.1302 must contain the following: whether the complainant is a multichannel

video programming distributor or video programming vendor, and, in the case of a multichannel video programming distributor, identify the type of multichannel video programming distributor, the address and telephone number of the complainant, what type of multichannel video programming distributor the defendant is, and the address and telephone number of each defendant.

47 CFR 76.1302(d) sets forth the evidence that a program carriage complaint filed pursuant to Section 76.1302 must contain in order to establish a prima facie case of a violation of Section 76.1301.

47 CFR 76.1302(e)(1) provides that a multichannel video programming distributor upon whom a program carriage complaint filed pursuant to Section 76.1302 is served shall answer within sixty (60) days of service of the complaint, unless otherwise directed by the Commission.

47 CFR 76.1302(k) permits a program carriage complainant seeking renewal of an existing programming contract to file a petition along with its complaint requesting a temporary standstill of the price, terms, and other conditions of the existing programming contract pending resolution of the complaint, to which the defendant will have the opportunity to respond within 10 days of service of the petition, unless otherwise directed by the Commission. To allow for sufficient time to consider the petition for temporary



standstill prior to the expiration of the existing programming contract, the petition for temporary standstill and complaint shall be filed no later than thirty (30) days prior to the expiration of the existing programming contract.

Federal Communications Commission.

Marlene H. Dortch,

Secretary,

Office of the Secretary,

Office of Managing Director.

BILLING CODE 6712-01-P

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